

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

No. 5:15-CR-292-FL-1
No. 5:18-CV-225-FL

KURT MICHAEL KROL,)	
)	
Petitioner,)	
)	ORDER
v.)	
)	
UNITED STATES OF AMERICA,)	
)	
Respondent.)	


This matter is before the court on the Memorandum and Recommendation (“M&R”) of United States Magistrate Judge James E. Gates, regarding the petitioner’s motion to vacate, set aside, or correct his sentence, under 28 U.S.C. § 2255 (DE 168), petitioner’s petition for commutation of sentence (DE 206), and the government’s motion to dismiss (DE 199). No objections to the M&R have been filed, and the time within which to make any objection has expired. This matter is ripe for ruling.

To assist in its review of defendant’s denial of benefits, the court may “designate a magistrate judge to conduct hearings . . . and to submit . . . proposed findings of fact and recommendations for the disposition [of the motions for judgment on the pleadings].” See 28 U.S.C. § 636(b)(1)(B). The parties may object to the magistrate judge’s findings and recommendations, and the court “shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” Id. § 636(b)(1). The court does not perform a de novo review where a party makes only “general and conclusory objections that do not direct the court to a specific error in the magistrate’s proposed

findings and recommendation.” Orpiano v. Johnson, 687 F.2d 44, 47 (4th Cir. 1982). Absent a specific and timely filed objection, the court reviews only for “clear error,” and need not give any explanation for adopting the M&R. Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005); Camby v. Davis, 718 F.2d 198, 200 (4th Cir.1983). Upon careful review of the record, “the court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1).

Upon careful review of the M&R and of the record generally, having found no clear error, the court hereby ADOPTS the recommendation of the magistrate judge as its own, and, for the reasons stated therein, the government’s motion to dismiss is GRANTED, petitioner’s motions are DENIED, and this matter is DISMISSED. Under 28 U.S.C. § 2253(c), the court has reviewed the arguments raised, and, in light of the applicable standard, a certificate of appealability is DENIED. The clerk of court is DIRECTED to close the case.

SO ORDERED this the 24th day of March, 2020.


LOUISE W. FLANAGAN
United States District Judge